

Food and Nutrition Service, USDA

§ 220.17

there is substantial evidence of violations of criminal law or civil fraud statutes.

(Secs. 805 and 819, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1773); sec. 812, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1759a))

[40 FR 30925, July 24, 1975. Redesignated and amended by Amdt. 25, 41 FR 34757, 34760, Aug. 17, 1976; 43 FR 59825, Dec. 22, 1978; Amdt. 41, 47 FR 14135, Apr. 2, 1982; Amdt. 43, 47 FR 18564, Apr. 30, 1982; Amdt. 56, 54 FR 2990, Jan. 23, 1989; 57 FR 38587, Aug. 26, 1992; 59 FR 1894, Jan. 13, 1994; 64 FR 50742, Sept. 20, 1999; 71 FR 30563, May 30, 2006; 71 FR 39517, July 13, 2006]

§ 220.16 Procurement standards.

(a) *Requirements.* State agencies and School Food Authorities shall comply with the requirements of 7 CFR part 3016 or 7 CFR part 3019, as applicable, concerning the procurement of supplies, food, equipment and other services with Program funds. These requirements are adopted by FNS to ensure that such materials and services are obtained for the Program efficiently and economically and in compliance with applicable laws and executive orders.

(b) *Contractual responsibilities.* The standards contained in 7 CFR part 3016 or 7 CFR part 3019, as applicable, do not relieve the State agency or School Food Authority of any contractual responsibilities under its contract. The State agency or School Food Authority is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes but is not limited to: source evaluation, protests, disputes, claims, or other matters of a contractual nature. Matters concerning violation of law are to be referred to the local, State or Federal authority that has proper jurisdiction.

(c) *Procurement procedure.* State agencies or school food authorities may use their own procedures for procurement with program funds to the extent that:

(1) Procurements by public school food authorities comply with applicable State or local laws and standards set forth in 7 CFR part 3016; and

(2) Procurements by nonprofit private school food authorities comply

with standards set forth in 7 CFR part 3019.

(d) *Buy American.*—(1) *Definition of domestic commodity or product.* In this paragraph (d), the term “domestic commodity or product” means—

(i) An agricultural commodity that is produced in the United States; and

(ii) A food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

(2) *Requirement.*—(i) *In general.* Subject to paragraph (d)(2)(ii) of this section, the Department shall require that a school food authority purchase, to the maximum extent practicable, domestic commodities or products.

(ii) *Limitations.* Paragraph (d)(2)(i) of this section shall apply only to—

(A) A school food authority located in the contiguous United States; and

(B) A purchase of domestic commodity or product for the school breakfast program under this part.

(3) *Applicability to Hawaii.* Paragraph (d)(2)(i) of this section shall apply to a school food authority in Hawaii with respect to domestic commodities or products that are produced in Hawaii in sufficient quantities to meet the needs of meals provided under the school breakfast program under this part.

(Pub. L. 79-396, 60 Stat. 231 (42 U.S.C. 1751); Pub. L. 89-642, 80 Stat. 885-890 (42 U.S.C. 1773); Pub. L. 91-248, 84 Stat. 207 (42 U.S.C. 1759))

[Amdt. 45, 48 FR 19355, Apr. 29, 1983, as amended at 64 FR 50743, Sept. 20, 1999; 71 FR 39517, July 13, 2006]

§ 220.17 Prohibitions.

(a) In carrying out the provisions of this part, the Department shall not impose any requirements with respect to teaching personnel, curriculum, instructions, methods of instruction, and materials of instruction in any school as a condition for participation in the Program.

(b) The value of assistance to children under the Act shall not be considered to be income or resources for any purposes under any Federal or State laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditure of funds from State and local